IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Bail Appl..No. 4752 of 2007

(CRIME NO. 331/2007 OF PERAMANGALAM POLICE STATION)
.....

PETITIONERS/ACCUSED:
----

1. **SAJEEVAN, AGED 33 YEARS,**
   S/O. LATE NARAYANAN,
   PATTIAMPULLY HOUSE, PUTHOOR,
   KAIPARAMBU.

2. **PRASAD, AGED 43 YEARS,**
   S/O. AYYAPPANKUTTY,
   KADALIKKADAN HOUSE,
   KAIPARAMBU.

3. **MANOJ, AGED 30 YEARS,**
   S/O. SHANKARANKUTTY,
   SHAKARANTHADATHIL, PUTHOOR,
   KAIPARAMBU.

BY ADV. SRI.NAGARAJ NARAYANAN,
SRI.SAIJO HASSAN,
SRI.A.S.SABU.

RESPONDENT/STATE:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZER.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/08/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4752 OF 2007

Dated this the 6th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations, inter alia, under Sec.452 of the Cr.P.C. Altogether, there are three accused persons. On 15/7/07 at 8 p.m. the petitioner had allegedly trespassed into the vegetable shop of the de facto complainant and indulged in wanton acts of violence inside the shop. They had gone to the shop after allegedly making preparations. Exhaustive damage was caused to the shop. One Sumesh - a friend of the de facto complainant, who was available in the shop, was attacked. There was animosity between the petitioners and the said friend of the de facto complainant who was available in the shop. A crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that

the petitioners are absolutely innocent. False allegations have been raised against the petitioners on account of political animosity. The said Sumesh owes amounts to the petitioners and he has been avoiding the petitioners all along. The present attempt is to vex and harass the petitioners by making false allegations. Directions under Sec.438 of the Cr.P.C. may, in these circumstances, be issued, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the shop of the de facto complainant bore marks of the wanton attacks. There are no circumstances justifying the invocation of the discretion under Sec.438 of the Cr.P.C. The petitioners may not be granted anticipatory bail, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail. I find no features available in this case which would justify the invocation of the discretion under Sc.438 of the Cr.P.C.

5. In the result, this application is dismissed; but with the

observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge